

REMARKS

Claims 1, 2, 4, 6-10, 12, 14-16 and 18-23 have been amended. Claims 3, 5, 11, 13 and 17 have been canceled. New claims 24-27 have been added. Thus, claims 1, 2, 4, 6-10, 12, 14-16 and 18-27 are now pending in the present application. Support for the claim amendments may be found in the original claims and drawings, and throughout the specification, for example in original claim 3, and in paragraphs [0012], [0017], [0040] and [0041]. The remainder of the claim amendments address formal issues unrelated to patentability, such as Markush language and other minor matters. Thus, no new matter has been added. Reconsideration and withdrawal of the present rejections in view of the comments presented herein are respectfully requested.

Rejection under 35 U.S.C. §103(a)

Claims 1-23 were rejected as being unpatentable over Field (US 4,465,232) in view of Gadoua (US 4,744,514). However, as explained below, this combination of references does not render the present claims obvious.

Field discloses a delivery system for perfumes which comprises a pocket, adhesive 5 for attaching the pocket to a surface and an absorbent pad (scent-soap pallet 7), and an opening (8) to allow the absorbent pad to be received and held securely but is removable therefrom. However, Field does not teach or suggest that the pocket may comprise a single piece construction from a flexible member folded over itself to define first and second layers as recited in present claims 1, 15 and 18. Each embodiment described by Field has at least two separate layers of fabric - see column 1, lines 21-23, see column 1, line 55 (decorative face 2 and rear face 3), column 1, line 66 (decorative face 2' and rear face 3') and column 2, lines 41-52 (pocket formed between members 34 and 31). Accordingly, Field does not teach or suggest the folding of the single piece construction to form first and second layers such that there is an extended part, which itself is folded in order to provide a closure member which is fixed at its sides to the pocket.

Moreover, Field does not teach that the pocket is made from a material that is arranged to prevent the medicament or well being enhancing composition from passing through its structure to the skin as recited in present claims 1, 15, and 21. In contrast, the material disclosed by Field is a fabric (see column 1, lines 20-24), which clearly permits the composition to pass through its structure to the skin, since the conventional fabrics described by Field, would allow the perfume to soak through the fabric and rub against the skin or clothes of the user.

Gadoua does not provide any reasons for one having ordinary skill in the art to modify the teachings of Field to produce the presently claimed invention. Gadoua discloses a laminated flexible scent carrying ornament for attachment to personal clothing, but does not teach or suggest a single piece construction or a folded closure member as recited in present claims 1, 15 and 18 (absorbent center lamination 14 is charged through top lamination 12: see column 2, lines 21-27). Thus, there is no need for an opening and a closure member in the ornament described by Gadoua. With regards to materials, the bottom lamination 18 is made from a non-permeable cloth (see column 2, lines 35-38). However, it is nowhere disclosed that any of the materials can be used to allow the inhalable vapor to pass therethrough as recited in presently pending claims.

Thus, neither Field nor Gadoua disclose the particular structure recited in the presently pending claims. Nor do either of these references make use of a material that both prevents the medicament or well being enhancing composition from passing through its structure to the skin and enables an inhalable vapor to be released therethrough. Moreover, one of ordinary skill in the art would have no reason to provide such a structure or material without the foreknowledge of the present invention. The prior art references are directed merely to the delivery of scents, such as perfumes/colognes. Therefore, there is no reason to modify the teachings of the cited references to produce the recited structure and materials, which are directed to delivery of an inhalable vapor. The recited structure and materials permit the medicament or well being enhancing composition to be periodically replaced, while at the same time prevent contact with the skin and clothing and permit an inhalable vapor to be released. Only upon review of Applicants' disclosure would one having ordinary skill in the art have any reason to modify the teachings of Field and Gadoua to produce these features.

Because the combination of Field and Gadoua would not suggest all of the features of claims 1, 15, 18 and 21 to one having ordinary skill in the art, these claims, and the claims dependent thereon, cannot be even *prima facie* obvious over these references. The use of a single piece construction, which is neither disclosed nor suggested by the cited references, either alone or in combination ensures that the pocket is easy to manufacture and the arrangement of the closure member ensures that the absorbent pad is securely held within the pocket, while being removable therefrom. This is particularly useful for individuals who may want to use the delivery

of a medicament for keeping nasal passages clear while playing sports, without the absorbent pad falling from the pocket, and being able to reuse the pocket with a new pad. The design of the closure member ensures that even during vigorous exercise the absorbent pad is securely retained. Furthermore, some medicaments and well being enhancing compositions such as insect repellents, etc., may irritate a person's skin and the selection of the material to prevent the liquid medicament or well being enhancing composition from touching the skin prevents irritation or allergic reactions from occurring, while allowing a vapor to be released to perform its medicinal or comforting function.

New claim 27 is also patentable in view of the cited references. This claim recites a kit comprising an absorbent pad impregnated with a medicament or well being enhancing composition,...wherein the well being enhancing composition is vaporized decongestant, an essential oil, a muscle relaxant or an insect repellent. The cited references relate to devices/ornaments in which a fabric is impregnated with a perfume or cologne, then attached to clothing or another surface. Neither reference teaches or suggests the use of the devices/ornaments in conjunction with a vaporized decongestant, essential oil, muscle relaxant or insect repellent. Thus, with the knowledge provided by these references, one of ordinary skill in the art would have absolutely no reason to substitute one of the agents recited in claim 27 for the cologne or perfume disclosed by Field or Gadoua. In fact, one of ordinary skill in the art, seeking to produce the kit recited in claim 27, would not even have discovered the cited references. One looking to produce a kit comprising an absorbent pad impregnated with the recited medicaments/well being enhancing compositions, would not turn to references relating to scented lapel ornaments.

In view of the amendments and comments presented above, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

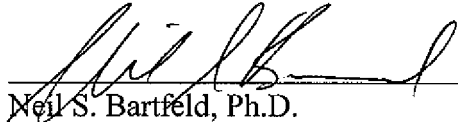
CONCLUSION

Applicants submit that all claims are in condition for allowance. Should there be any questions concerning this application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 2/8/08

By: 
Neil S. Bartfeld, Ph.D.
Registration No. 39,901
Agent of Record
Customer No. 20,995
(619) 235-8550

4862521
020808